

the United States Court of Federal Claims

No. 23-824

(Filed: 7 August 2023)

NOT FOR PUBLICATION

KELLY USANOVIC *
*
Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *

ORDER

HOLTE, Judge.

On 5 June 2023, plaintiff Kelly Usanovic filed a complaint seeking review of the United States Army’s decision to deny a medical disability retirement and requesting “a remand of her claims to the Army Board for Correction of Military Records (‘ABCMR’).” Compl. at 1, ECF No. 1. On 3 August 2023, pursuant to Rule 52.2 of the Rules of the Court of Federal Claims (“RCFC”), the government filed an unopposed motion for voluntary remand and stay of proceedings. *See* Unopposed Mot. to Remand, ECF No. 5. In the motion, the government requested “the Court stay all proceedings in this matter, including all pending deadlines, and remand this matter so that the [ABCMR] may: (1) consider the claims asserted by plaintiff, Kelly Usanovic according to the liberal consideration standard; (2) reopen the record; (3) provide Ms. Usanovic an opportunity to submit additional relevant information and argument; (4) obtain any additional evidence or information, including any advisory recommendations or advisory opinions, that may be appropriate to assist in considering Ms. Usanovic’s claims; and (5) issue a new decision.” *Id.* at 1. The government presents its request as “proper and just” and states, “Counsel for Ms. Usanovic . . . consents to the [g]overnment’s proposed remand and stay.” *Id.* at 1, 4. The motion further requests the Court require “defendant to provide a status report every 90 days following any remand order.” *Id.* The Court, accordingly, adopts the parties’ proposed procedure for remand and orders the following:

- (1) The Court **GRANTS** the government’s Unopposed Motion for Remand, ECF No. 5, and **REMANDS** the case to the ABCMR.
- (2) The remand period **SHALL TERMINATE** on **5 February 2024**, and the Court **STAYS** all proceedings in this case until that date. *See* RCFC 52.2(b)(1)(C). If the ABCMR has not acted on the remand on or before **5 February 2024**, the parties shall

follow the procedures provided in RCFC 52.2(c).

- (3) The ABCMR **SHALL RECONSIDER** fully all claims asserted by plaintiff and any new arguments or evidence she presents regarding her existing claims in accordance with the ABCMR's applicable procedures and powers, including the ABCMR's power to seek additional advisory opinions.
- (4) The parties **SHALL FILE** a joint status report every 90 days, with the first due on **6 November 2023**, apprising the Court of the status of the remand proceedings.
- (5) Within 30 days of the ABCMR's decision, the parties **SHALL FILE** a joint status report advising the Court whether: (1) the remand affords a satisfactory basis for disposition of the case; or (2) further proceedings are required and, if so, the nature of such proceedings. *See* RCFC 52.2(e)(1).

The Court **DIRECTS** the Clerk to serve a certified copy of this Order and the complaint, along with a copy of the Court's docket sheet in this case, to the ABCMR at:

Army Review Boards Agency (ARBA)
251 18th Street South
Suite 385
Arlington, VA 22202-3531
army.arbainquiry@mail.mil

IT IS SO ORDERED.

s/ Ryan T. Holte
RYAN T. HOLTE
Judge